

OGC Has Reviewed

OGC 78-5100

Approved For Release 2004/03/29 : CIA-RDP85-00988R000300010014-4

78-1050/4

MEMORANDUM FOR : Chief, Operations & Management Division/OGC

STAT FROM :
Assistant General Counsel

SUBJECT : S.2525 - Proposed Charter Legislation -
Title IV, CIA - Proprietaries

1. As you know, on Tuesday, 1 August 1978, a group of OGC representatives (including of your office) met with Pat Norton, John Elliff, and Keith Raffel of the Senate Select Committee on Intelligence staff concerning CIA's suggested revisions of the proposed CIA charter.

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2. Among other things, we discussed the changes proposed for Section 403(b), defining "proprietary," and Section 421(d)(1) and (2), concerning certain aspects of proprietary financing. (Copies attached.) In response to our previously expressed concerns regarding disposition of proceeds from liquidation of proprietaries, the staffers provided a draft of a new section which would replace Section 421(d) entirely. That proposal is attached also and, I would appreciate your comments on this language.

3. The staffers were unable to rationalize the continued inclusion of the Attorney General in the liquidation procedure in Subsection (d) over our objection except to say that this was a recommendation of the Church Committee. (See Book I, Foreign and Military Intelligence, pp. 456-59, Rec. 52.) Your comments as to the acceptability or advisability of this requirement, representing on its face nothing more than a notification provision, also would be helpful.

4. In addition, you will note that the liquidation procedure continues to be keyed to proprietaries with a net value in excess of \$50,000.00. The staffers do not feel strongly about this particular figure as the "floor" for reporting proprietary liquidations and have indicated a willingness to modify the figure upward if the current level is so low as to cause needless administrative reporting of relatively trivial transactions. What is needed from you as the basis for urging any increase in this level is a specific breakdown of the numbers and net values of Agency proprietaries, and perhaps, an average net value figure, as well as some idea of how often various classes of proprietaries are liquidated.

requests for authority to utilize proprietary profits in excess of "operational requirements" for the purposes of establishing additional proprietaries. There was some discussion, at John Elliff's instigation, of the idea of an annually appropriated "revolving fund" into which excess profits would be poured and from which proprietary start-up monies could be drawn, but this concept was not endorsed warmly. If we are to make any headway in this regard, we must have some justification for such authorization. Can you generate any real instances, and the frequency with which they arise, in which requiring that excess proprietary profits be deposited in the Treasury and that new proprietaries be established from appropriations or supplemental appropriations would cause us problems? Why would not the Contingency Fund established in Section 425(c) be sufficient for these purposes?

6. Finally, as to the definition of "proprietary" now in Section 403(b), our suggested revisions were not deemed necessary but the definition is being reexamined and will be moved to Title I. Our interests would be served greatly if you are able to develop specific support for the changes we have proposed.

7. Generally, the sooner we are able to respond to these needs, and the more thorough and persuasive the nature of that response, the better our chances to influence the content of the revised version of Title IV. Thus, I would appreciate your comments as soon as is possible.

Atts

cc:

OGC/ARC/lv

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